

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

**KENNETH COZART, in his own right
and on behalf of others similarly situated,**

Plaintiff,

v.

**Civil Action No. 5:18-cv-00397
Honorable Judge Irene C. Berger**

**BLUESTONE INDUSTRIES, INC., and
JILLEAN L. JUSTICE, JAMES C. JUSTICE, III,
JAMES T. MILLER, individually,**

Defendants.

JOINT MOTION TO APPROVE SETTLEMENT

COMES now the Parties, jointly, by their respective counsel, and requests this Court to approve the settlement herein.

In support thereof, the Parties state as follows:

1. This action was instituted on or about March 6, 2018 for payroll checks returned for nonsufficient funds.

2. This action was filed as a putative class and collective action under the WV WPCA and FLSA, however, during the course of litigation, discovery, and the resolution of a companion case, the number of potential claimants was reduced to only seven (7).

3. The plaintiff has voluntary dismissed the FLSA claim 29 USC § 201, et. seq. with prejudice and this settlement only relates to the WVWPA W.Va. Code § 21-5-1 et. seq.

4. The Parties believe that as only seven (7) individuals remain, the numerosity requirement for a class and collective action certification cannot be met.

5. A confidential settlement agreement has been reached between the Defendants and seven (7) individual Plaintiffs and each of the individual Plaintiffs herein will execute a mutually agreed upon confidential settlement and agreement release.

6. Further, the Parties have agreed that all claims asserted by the Plaintiff will be dismissed with prejudice.

7. The Parties further acknowledge that one or more asserted claims is a fee shifting and the settlement reached includes compensation to Plaintiff's counsel for their time, effort, and litigation expenses incurred to date.

In light of the above, the Parties believe in the best interest of justice served by the proposed confidential settlement and submitted the attached order.

PARTIES,

By Counsel

/s/ Greg A. Hewitt
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BECKLEY DIVISION

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Defendants.

CERTIFICATE OF SERVICE

I, Greg A. Hewitt, the undersigned counsel for Plaintiffs do hereby certify that the foregoing **Joint Motion to Approve Settlement** has been filed with the Court on this 15th day of August, 2019, using the CM/ECF system.

/s/ Greg A. Hewitt
Greg A. Hewitt (WVSB 7457)
Counsel for Plaintiff